

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

ELBERT R. COMPTON,

Plaintiff,

v.

NURSE SEQUIN et al.,

Defendants.

OPINION & ORDER

12-cv-837-wmc

Pro se plaintiff Elbert Compton, who is currently incarcerated at Waupun Correctional Institution ("WCI"), was recently granted leave to proceed against certain defendants in this civil action brought pursuant to 42 U.S.C. § 1983 and the Eighth Amendment. Consistent with its screening of the case under the Prison Litigation Reform Act ("PLRA"), the court ordered service of Compton's complaint on defendants Sequin, Cox and Waterman. On May 1, 2014, the Department of Justice accepted service on behalf of Cox and Waterman but informed the court that Sequin is deceased. (*See* dkt. #9.) Defendants have served Compton with a copy of the Notice of Appearance and Acceptance of Service, the latter of which provides notice of Sequin's death. (*See* Certificate of Service (dkt. #8-1).)

Federal Rule of Civil Procedure 25(a) governs the substitution of parties upon death and provides in relevant part:

If a party dies and the claim is not extinguished, the court may order substitution of the proper party. A motion for substitution may be made by any party or by the decedent's successor or representative. If the motion is not made within 90 days after service of a statement noting the death, the action by or against the decedent must be dismissed.

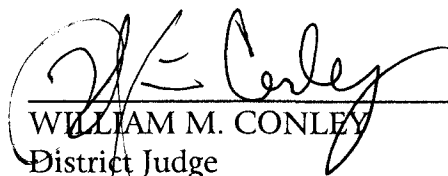
Fed. R. Civ. P. 25(a)(1). If Compton wishes to continue to pursue a claim against Sequin, and he believes that her death has not extinguished the claim against her, he should file a motion to substitute the proper party within 90 days. If he does not do so, he should be aware that his claim against Sequin will be dismissed in accordance with Rule 25.

ORDER

IT IS ORDERED that plaintiff Elbert Compton is to file a motion to substitute parties within 90 days. If he does not, his claims against defendant Stephanie Sequin will be dismissed.

Entered this 5th day of May, 2014.

BY THE COURT:



WILLIAM M. CONLEY
District Judge